

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Coleson Smith	Team: Squad #13	CCRB Case #: 202300555	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 01/19/2023 12:10 PM	Location of Incident: McGuinness Boulevard South and Broome Street		18 Mo. SOL 7/19/2024		Precinct: 94
Date/Time CV Reported Thu, 01/19/2023 4:57 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Thu, 01/19/2023 4:57 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Spencer Wolf	31975	968889	094 PCT

Officer(s)	Allegation	Investigator Recommendation
A . PO Spencer Wolf	Abuse: Police Officer Spencer Wolf threatened to arrest § 87(2)(b)	
B . PO Spencer Wolf	Discourtesy: Police Officer Spencer Wolf was discourteous to § 87(2)(b)	
C . PO Spencer Wolf	Off. Language: Police Officer Spencer Wolf made offensive remarks to § 87(2)(b)	

Case Summary

On January 19, 2023, § 87(2)(b) filed this complaint with the CCRB via its Call Processing System (**21 Board Review**).

On January 19, 2023, at approximately 12:10 A.M., near the intersection of McGuinness Boulevard South and Broome Street in Brooklyn, Police Officer Spencer Wolf of the 94th Precinct pulled § 87(2)(b) over for driving while using a cell phone. § 87(2)(b) asked for a supervisor, and PO Wolf said he may be arrested if a supervisor came to the scene (**Allegation A: Abuse of Authority – Threat of Arrest**, § 87(2)(g)). PO Wolf wore a patch bearing the phrase “Deus Vult” and a red cross on his uniform (**Allegation B: Discourtesy – Other**, § 87(2)(g)). § 87(2)(b) received a summons for operating a motor vehicle while using a portable electronic device (**05 Board Review**).

Body-worn camera footage filmed by PO Wolf was obtained (**01-02 Board Review**). § 87(2)(b) provided two cell phone recordings and a photograph from the incident (**03-04 Board Review**).

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Spencer Wolf threatened to arrest § 87(2)(b).

§ 87(2)(b) (**05 Board Review**) stated that PO Wolf pulled him over and asked for his driver’s license. § 87(2)(b) told PO Wolf that he had a picture of his ID on his phone, which was in a bag in the back seat. As § 87(2)(b) reached for the bag, PO Wolf told him to be mindful as he reached around in his car. Upon hearing that, § 87(2)(b) looked back and saw PO Wolf with his left hand on his gun. This led § 87(2)(b) to feel threatened, so he asked for a supervisor. PO Wolf told him that if his supervisor came to the scene, things would get worse, and he would be arrested. § 87(2)(b) then retrieved his phone from his bag and showed PO Wolf a picture of his passport on his phone. PO Wolf returned to his vehicle and came back with a summons 15 minutes later, which he handed to § 87(2)(b).

PO Wolf’s BWC footage (**01 Board Review**) is largely consistent with § 87(2)(b) testimony, with the following exceptions: At runtime 04:30, PO Wolf tells § 87(2)(b) that he will call his sergeant, but that he wants to identify § 87(2)(b) before doing so. PO Wolf then tells § 87(2)(b) “If I get my sergeant over here, it’s gonna escalate.” At 15:47, PO Wolf returns to § 87(2)(b) vehicle with a summons. § 87(2)(b) initially refuses to accept the summons, disputes its validity, and repeats his request for PO Wolf’s sergeant while rolling up his window. At 16:18, PO Wolf tells § 87(2)(b) “I’m letting you know, if the sergeant’s getting here, you might end up getting arrested. It’s a ticket now....” § 87(2)(b) asks what he could get arrested for, and PO Wolf tells him that he is not complying with his lawful orders. At 17:39, after § 87(2)(b) continues to refuse to accept the summons, PO Wolf says, “If you don’t want to take the ticket, it’s still gonna go in the computer, your license will get suspended.” At 18:22, PO Wolf places the summons on § 87(2)(b) dashboard.

PO Wolf (**06 Board Review**) stated that he stopped § 87(2)(b) after observing him using a portable electronic device while driving. He did not observe § 87(2)(b) committing any other offenses. When § 87(2)(b) requested a supervisor, PO Wolf tried to explain to him that he could get one, but that he was willing to work with § 87(2)(b) to resolve the situation. He also told § 87(2)(b) that if he called his sergeant, it could potentially escalate the situation and that he

may be arrested. PO Wolf described § 87(2)(b) demeanor as confrontational and argumentative.

After watching his own BWC footage from 06:14 to 06:40, PO Wolf stated § 87(2)(b) could have been arrested for being disorderly if his sergeant came to the scene. He explained in his interview that what he meant when he said, “You might end up getting arrested,” was that if § 87(2)(b) began acting disorderly when his supervisor arrived, he could be arrested for disorderly conduct. He did not specify this to § 87(2)(b). At the time, § 87(2)(b) was not acting disorderly. PO Wolf felt the need to tell § 87(2)(b) of the possibility of being arrested because he did not want to prolong the car stop, he did not want to escalate the situation, and he wanted to fulfill his duties as a traffic enforcement officer by issuing him a summons and allowing them both to be on their way. He used the phrase, “If I call my sergeant, you could get arrested,” because he wanted to let § 87(2)(b) know that requesting a sergeant might not be the best route for handling the situation, and that accepting the summons was a better course of action. There was nothing else PO Wolf could have arrested § 87(2)(b) for.

New York State Penal Law 240.20 (07 Board Review) states, “A person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof:

1. He engages in fighting or in violent, tumultuous or threatening behavior; or
2. He makes unreasonable noise; or
3. In a public place, he uses abusive or obscene language, or makes an obscene gesture; or
4. Without lawful authority, he disturbs any lawful assembly or meeting of persons; or
5. He obstructs vehicular or pedestrian traffic; or
6. He congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse; or
7. He creates a hazardous or physically offensive condition by any act which serves no legitimate purpose.”

According to People v. Square, 872 N.Y.S.2d 693 (2008), “The mere expression that one feels aggrieved by the police -- even when uttered in a loud voice -- cannot constitute an offense” (08 Board Review).

PO Wolf’s stated reason for mentioning the possibility of § 87(2)(b) being arrested was to gain compliance from § 87(2)(b) and prevent a lengthy car stop. In his own testimony, PO Wolf stated that § 87(2)(b) was not acting disorderly when he told him he “might end up getting arrested.” By his own admission, PO Wolf lacked probable cause to arrest § 87(2)(b) for disorderly conduct or any other crime. § 87(2)(b) simply expressing his dissatisfaction or incredulity at receiving a summons, while seated alone inside a motor vehicle pulled over at the side of the road, would not constitute a crime, regardless of whether a supervisor responded to the scene,

§ 87(2)(g)

Allegation (B) Discourtesy: Police Officer Spencer Wolf was discourteous to § 87(2)(b)

Allegation (C) Offensive Language: Police Officer Spencer Wolf was offensive to § 87(2)(b)

§ 87(2)(b) provided a photograph which shows PO Wolf wearing a patch on his uniform bearing the words, “Deus Vult,” and a red cross (**09 Board Review**).

The phrase, “Deus Vult,” was supposedly first used as a rallying cry in a speech given by Pope Urban II in the year 1095, during which he called for European Christians to wage war against Muslims in order to reclaim the Holy Land, the area now known as the Middle East (**10 Board Review**). The speech ultimately gave rise to the Crusades, a series of wars between Christians and Muslims that went on for nearly 200 years. Over the past decade, far-right groups have adopted the phrase “Deus Vult,” along with other Crusader iconography, in part for their seemingly militant anti-Islamic sentiments (**11 Board Review**). The phrase has also been noted for its popularity among the alt-right as a symbol of Judeo-Christian pride and the values of Western civilization (**12 Board Review**). Along with widespread use of the phrase on social media, it has also appeared in political demonstrations across the country. In August 2017, in Charlottesville, Virginia, participants at the “Unite the Right Rally,” carried signs that bore “Deus Vult,” along with a red cross (**13 Board Review**). More recently, the same phrase and cross appeared together at the January 6 Capitol Riot (**14 Board Review**). The phrase has also appeared in acts of vandalism on mosques both in the US and the UK. In October 2016, three people spray-painted the phrase on a mosque in Arkansas, along with swastikas and other xenophobic messages (**15 Board Review**). That same month, the phrase was spray painted on a mosque in Cumbernauld, Scotland, next to the phrase, “Saracen Go Home” (**16 Board Review**). According to Ishaan Tharoor of the Washington Post, the phrase “has become a kind of far-right code word” (**17 Board Review**).

PO Wolf (**06 Board Review**) stated, “Deus Vult,” means “God willing,” in Latin. He stated it does not have any historical significance, nor does it have any contemporary political significance. He stated he first encountered the phrase when he observed it on the patch. He did not recall where he got the patch. He did not know who else wears the patch or uses the phrase. He stated he had no particular reason for wearing that patch, and that he had not seen it in popular culture or in the media. The fact that the phrase comes from The Holy Wars/the Crusades had no particular significance to him. He stated that he did not know about the NYPD’s policies concerning uniform modification. He did not receive authorization from a supervisor to wear the patch.

Per NYPD Patrol Guide Procedure 200-02 (**18 Board Review**), as part of its core values, the NYPD maintains a higher standard of integrity than is generally expected of others. Additionally, it is the NYPD’s mission to value human life, respect the dignity of each individual, and render their services with courtesy and civility.

Per Administrative Guide 304-06 (**19 Board Review**), officers are prohibited from using discourteous or disrespectful remarks regarding another person’s ethnicity, race, or religion, or knowingly associating with any person or organization advocating hatred, oppression, or prejudice based on race or religion, and from engaging in conduct that is prejudicial to the good order, efficiency, or discipline of the Department.

Per Administrative Guide 305-01 (**20 Board Review**), members of service must not modify prescribed uniforms in any manner except as specifically authorized by a supervisor.

PO Wolf admitted that he had no particular reason for wearing the patch, and that he had not received authorization from a supervisor to affix it to his uniform. PO Wolf's uniform modification was thus in violation of AG 305-01. Additionally, PO Wolf's association with a phrase and imagery coopted by racist far-right groups and utilized in xenophobic attacks on mosques is antithetical to the NYPD's mission to value human life, preserve peace, respect individuals, and render services with courtesy and civility, as outlined in PG 200-02. Moreover, as exhibited by the phrase's appearance in culture, politics, and media, this patch constitutes an association with organizations advocating hatred, oppression, and prejudice based on race and religion, and is thus in violation of AG 304-06. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**21 Board Review**).
- PO Wolf has been a member-of-service for three years and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
 - As of March 16, 2023, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this incident (**22 Board Review**).
 - [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- § 87(2)(b)

Squad: 13

Investigator:	<u>Coleson Smith</u>	<u>Inv. Coleson Smith</u>	<u>03/30/2023</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>JP Lozada</u>	<u>IM Jean-Paul Lozada</u>	<u>03/30/2023</u>
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date